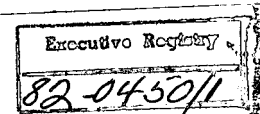


CENTRAL INTELLIGENCE AGENCY  
WASHINGTON, D.C. 20505

28 FEB 1982



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MEMORANDUM FOR: Deputy Director  
Office of Management and Budget

FROM: Harry E. Fitzwater  
Deputy Director for Administration

SUBJECT: Proposal for a Uniform Federal Procurement System

REFERENCES:

- A. Multiple Addressee memorandum from Donald E. Sowle, dtd 30 October 1981, same subject
- B. Letter for Mr. Donald E. Sowle from Harry E. Fitzwater, dtd 10 December 1981
- C. Multiple addressee memorandum from Edwin Harper, dtd 12 Feb 1982, same subject

1. Reference A requested our comments on a draft entitled, "Proposal for a Uniform Federal Procurement System," dated October 29, 1981. The requested comments were provided in some detail by Reference B. Reference C now requests our comments on a "final draft" of a document dated February 12, 1982, which is also entitled, "Proposal for a Uniform Federal Procurement System," but which bears little resemblance to the earlier draft. This unusual procedure has caused us some difficulty in evaluating the differences between the two drafts and the degree to which our earlier comments have been incorporated.

2. Chapters 1 through 4 of the document currently under review are introductory, provide background information, or describe possible future directions for our Federal Government procurement system. While reserving the right to take exception to statutory or regulatory proposals emanating from these chapters, we agree generally with their thrust.

3. Chapter 5 includes sections 1 through 3 which propose to amend the Armed Services Procurement Act, the Federal Property and Administrative Services Act, and the Office of Federal Procurement Policy Act, respectively. Section 4, entitled, "Miscellaneous Amendments and Repeals," was not included. Before

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offering specific comments on these individual sections, we note that their applicability seems to be to all Federal Government departments and agencies. It is essential that any uniform procurement system proposal supported by the Administration includes an explicit endorsement of the unique requirements and special authorities of the Central Intelligence Agency (CIA). We request, therefore, that sections 1, 2, and 3 be modified to include the following language:

Nothing in this Act shall be construed to require any disclosure of information which would be inconsistent with the protection of intelligence sources or methods, or to otherwise affect the authorities granted to the Director of Central Intelligence or to the Central Intelligence Agency by statute or executive order. Nor shall anything in this Act be construed to affect any regulation issued pursuant to section 403c or 403j of Title 50, United States Code, or any subsequently enacted legislation related to the procurement authorities of the Central Intelligence Agency.

Other comments on Chapter 5 are as follows:

Section 1 (page 7): This section (2303) lists those departments and agencies which may utilize the Armed Services Procurement Act. While this Agency is not listed, we have, since our inception, used the Act and its derivative regulations as a guide for our procurement operations. This practice has been accepted by former Administrators of the Office of Federal Procurement Policy (OFPP) and must, without yielding jurisdiction to the Secretary of Defense, except as otherwise provided by law, be continued to facilitate peculiar Agency requirements.

Section 1 (page 10): This section (2304) lists situations in which single-source procurement is allowable. We believe it should also include:

(7) a procurement of services by a college, university, or other educational institution;

(8) the purchase or contract is for technical or special property that he determines to require a substantial initial investment or an extended period of preparation for manufacture, and for which he determines that selection of

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another source would be likely to result in additional cost to the Government by reason of duplication of investment or would result in duplication of necessary preparation which would unduly delay the procurement of the property; . . . .

Section 1 (page 41): This section (15 U.S.C. 637) requires publication in the Commerce Business Daily of certain information on competitive and noncompetitive procurements of \$10,000 and above. First, we believe this \$10,000 figure should be changed to \$25,000 to be consistent with the new threshold for use of simplified purchase procedures. Secondly, the Director of Central Intelligence is charged with responsibility for protection of sources and methods. To carry out this responsibility, the Director has established a policy that no publication of information on solicitations or awards is permitted. Language prohibiting our contractors from publicizing information on awards is included in every contract. Recognition of this policy must be included in the Act.

Section 2 (page 9): This section (253) excludes the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration from its requirements. For the reasons stated above, the Central Intelligence Agency should also be excluded from the requirements of this Act and be authorized to utilize the provisions of the Armed Services Procurement Act.

Section 3 (page 17): This section (408) authorizes the establishment of a Federal Procurement Data System (already in place). It does not specify or list agencies required to input data. Many of CIA's relationships with its contractors are classified with third-party privity denied. The Agency cannot input data into the system without compromising classified information. This fact has previously been transmitted to OFPP.

Section 3 (page 21): This section (416(2)) would require that CIA furnish information and records to OFPP. The sensitive nature of CIA's mission, along with the responsibility of the Director of Central Intelligence, conflicts with the requirement of this section to give access to all information and records necessary for the performance of the functions of OFPP. A specific exemption from the requirement of this clause must be included for CIA.

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Section 4: This section has not been completed and was not, therefore, included for review. CIA reserves the right to comment on this section at such time that it becomes available.

4. In closing, may I say that we appreciate the opportunity to comment on the "final draft" of the Proposal for a Uniform Federal Procurement Policy System.

STAT

Harry E. Fitzwater

Attachments:

References A and B

Distribution:

Orig - Addressee  
1 - Comptroller  
✓ 1 - Executive Registry  
1 - C/L&PLD/OGC  
1 - OL/PMS (Official Copy)  
2 - DDA



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

OFFICE OF FEDERAL  
PROCUREMENT POLICY

OCT 30 1981

81-2271

MEMORANDUM FOR THE HEADS OF DEPARTMENTS AND AGENCIES

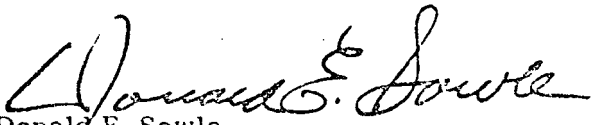
SUBJECT: Proposal for a Uniform Federal Procurement System

With the enactment of Public Law 96-83 in October 1979, OMB's Office of Federal Procurement Policy was required to develop and submit to Congress a proposal for a procurement system by October 1980; and proposals for a procurement management system and procurement legislation by this fall. Enclosed for your review and comment is a draft proposal which integrates all three elements and which supersedes OFPP's proposal of last October. It does not represent a coordinated executive branch position.

Although a full 30-day public and comment period has been scheduled for the review of this draft, I would encourage you to provide your comments as soon as possible to ensure that they are thoroughly considered. I also ask that your comments be concisely stated and reference specific pages and paragraphs, where appropriate, to facilitate our analysis and to expedite our revision of the proposal.

Please be assured that your views as well as those of the public will be carefully considered and that appropriate modifications will be made to the proposal. We intend to make available to the Congress a copy of your response to this request for comment, at the time of submission of the final proposal.

Thank you for your cooperation and assistance in reviewing the enclosed draft.

  
Donald E. Sowle  
Administrator

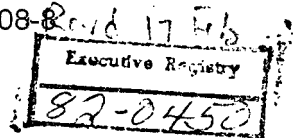
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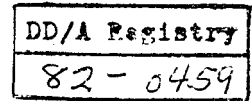
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## MEMORANDUM FOR THE HEADS OF DEPARTMENTS AND AGENCIES

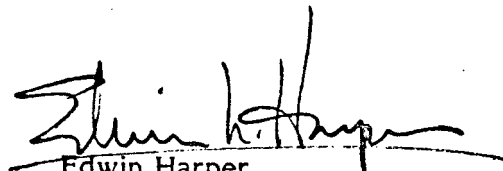
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Public Law 96-83 requires that the Administrator for Federal Procurement Policy submit to the Congress a proposal for a uniform procurement system, management structure, and necessary implementing legislation.

That proposal - which has been under development for two years and on which you had the opportunity to comment late last year - is attached for your final review. This final draft contains many changes resulting from your previous comments since we have made a sincere effort to accommodate all concerns that have been brought to our attention. As a result, the document represents, I believe, a reasonable, thorough, and comprehensive blueprint for making needed improvements in Federal procurement practices.

Because of our commitment to submit this proposal, in its entirety, to the Congress by the end of this month, it is necessary to ask for your response to the attached draft by Friday, February 19. We will not be able to accommodate comments received after that date. Agency reviews should be conducted in accordance with OMB Circular No. A-19, which governs Administration review and coordination of legislative proposals. Questions should be referred to the Administrator, Don Sowle, at 395-5802.

Thank you for your help.

  
Edwin Harper  
Deputy Director

Attachment

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